



Memorandum

Chuck Reed

**TO: Rules and Open Government
Committee**

FROM: Mayor Chuck Reed

**SUBJECT: Public Review of Potential
Soccer Stadium Plan**

DATE: April 10, 2007

After the hearing at the last Rules and Open Government Committee, it is clear to me that keeping the Lew Wolff soccer stadium materials confidential is permissible under the Public Records Act, as most recently interpreted by the California Supreme Court in the Michaelis case. After listening to statements from Les White, City Manager, Paul Krutko, Chief Development Officer and Harry Mavrogenes, Executive Director, RDA on April 4, 2007, it appears that releasing the materials at this time could negatively impact the staff's ability to negotiate an agreement in this case and in future transactions as well.

While the Public Records Act does not require us to release the documents, the Act certainly would allow us to do so, and I generally support decisions to release documents. Before we make a decision about the documents in this case, we should have a policy that would provide guidelines for disclosing documents when the city is negotiating with someone from the private sector.

After considering various scenarios, I realize that factors in each situation are different. I can envision instances where opportunities could be lost (for example, in corporate headquarters or professional sports relocations) if the city could not maintain confidentiality in the early stages of negotiations. Each instance must be reviewed on a case-by-case basis, and the interest in disclosure of documents must be balanced with the need, at times, to keep documents confidential. The Council should consider development of broader policy guidelines after the Sunshine Reform Task Force has finished its work on public records.

In this case, the stadium plan needs to be made public, and it should be done long before it comes to the City Council for action. I recommend the Rules and Open Government Committee approve the following actions to allow the public to know what is being considered, even before a formal proposal is submitted.

RULES AND OPEN GOVERNMENT COMMITTEE

Page 2

SUBJECT: Public Review of Potential Soccer Stadium Plan

April 10, 2007

RECOMMENDATIONS

1. Amend the work plan for the Community and Economic Development Committee and direct staff to report to the Committee on April 23, with a public memo not later than April 16, on the plan for a soccer stadium to answer the following questions:
 - What are the elements of the plan for a potential soccer stadium that would require action by the City?
 - How much public notice would be given for each action that might require City approval?
 - How would any soccer stadium affect the South Campus joint planning effort underway with SJSU?
 - Would the potential soccer stadium involve a financial contribution from San José?
 - How would the potential soccer stadium affect opportunities for building community sports fields with Measure P funds?
 - How would any potential soccer stadium affect Municipal Stadium?
 - Would the potential stadium require any land use changes?
 - How can the Council and the public be kept informed with periodic updates?
2. Direct staff to make periodic updates to the Parks and Recreation Commission on any of the elements of the plan for a soccer stadium that would affect Measure P funds or parks.